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PUTTING THE PUBLIC INTEREST INTO EU REFORM

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The starting gun has fired for the UK's in/out referendum on EU membership, and the battle lines are becoming clear. The Prime Minister will make great show of running round Europe – doubtless with his sleeves rolled up – before coming back with some minor but achievable changes to argue that the UK should stay in Europe. The “out” camp will dismiss any negotiable reforms as trivial, and then argue for the UK to be liberated from Europe.

The whole process will be framed as a battle between Britain and Europe with “reforms” as the score. If we “beat” Europe by getting enough reforms past them then we should stay in. This phoney war will disillusion citizens and fail to deliver the Europe we need.

The EU reform process is not a football match with Dave Cameron as our plucky centre forward. Any reform agenda has to deliver in the long term for all the people of the UK, and for citizens of other European countries, if it is to gain support. The Conservative Government was supported by less than 25% of the EU referendum electorate. It has no mandate to unilaterally decide on the UK's EU reform priorities.

David Cameron should take a leaf from his 2010 political playbook and make a serious offer to the other pro-EU political parties to jointly develop the UK negotiating position. Not only would this maximise the likelihood of a reform agenda which has wide appeal, it would also begin to build a broad based “in” campaign which reaches across Party lines.

A “big tent” approach to setting the UK reform agenda would also flush out some of the contradictions hidden in the current debate. Despite the often furious rhetoric, the truth is there are relatively few differences over the UK's place in Europe between many in the “in” and “out” camps. Large numbers in both groups want to see the UK as part of an EU single market, but exempted from rules on financial regulation, employment protection and worker's rights¹. What the CBI pejoratively calls “lifestyle regulations” like paternity leave and fair conditions for agency workers. At the moment there are few voices arguing the UK case for a more socially progressive Europe.

This narrow reform agenda re-enforces the myth that the UK joined a Common Market which somehow existed separately from politics. This is just wrong. The EU was always built on a basic political deal between centre-right and centre-left European political parties who were

¹ An illustrative list of proposed reforms showing this lack of balance can be found here <http://openeurope.org.uk/intelligence/britain-and-the-eu/open-europe-eu-reform-index/>



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working to tackle the common challenges of post-war reconstruction and the Cold War. They agreed that opening of European markets would be accompanied by protection of basic employment conditions and standards. Their aim was to ensure the economic benefits of market liberalisation did not start a race to the bottom in regulation, or a bidding war in tax cuts and subsidies to attract company investment. Europe has always been based on a vision of fair markets not free markets.

This model has worked. Despite increased EU and global competition the EU has raised wages and managed to maintain – and strongly raise – employee and citizen protections. It is action by the EU which has pushed Amazon to finally start paying some tax in the EU countries where it sells its goods. EU rules saw UK employees finally have legal rights to a minimum paid holiday. The strength of the EU has allowed steady increases in air and water quality; improving health and preventing millions of early deaths. The EU has meant that the UK is no longer the dirty man of Europe but has some of its cleanest beaches and rivers.

In contrast, the US shows what happens with unregulated competition in a single market. US states pay over \$80 billion every year in subsidies to attract companies². The public subsidy has risen to nearly half a million dollars per job in the US. EU rules prevent this type of damaging bidding war. Similar competitive pressures have resulted in the US failing to reduce acid rain and ground level pollution as strongly as Europe; resulting in greater impacts on human health, crops and nature.

Europe's collective power to maintain standards will be even more vital as global competition increases from China, Brazil, India and Africa. A UK which is outside the EU would be lobbied hard by domestic businesses to cut taxes, employment rights and regulations to the bone in order to maintain "competitiveness". An isolated UK can expect to face very hard bargaining from its ex-colonies such as India, South Africa and Nigeria when negotiating trade deals. There will be no good will from a China which keeps fresh its Opium War humiliations at the hands of the British Empire.

The EU debate is usually framed as the risk that "Brussels" is looking to impose laws we don't want. European institutions have too often seemed to measure their success by the quantities of legislation they can pass. Any reform agenda does need to make Europe do fewer things better and focus more on implementing existing laws. The truth is that this is already happening in Brussels and the UK can continue to push these reforms.

But we also need to be aware that vested interests will always try to weaken and roll back valuable EU protections. The UK government may have praised the reforms to the Better Regulation process recently announced by the European Commission, but they have been criticised by unions, consumer and environmental groups for giving economic concerns greater priority than product safety or environmental quality³.

National governments and business lobbies have far more access to decision making in Brussels than citizens. But the influence they wield is often hidden and unclear to citizens. The EU Ombudsman (who is currently a woman) has in the past year told the European

² <http://www.cfr.org/united-states/curtailing-subsidy-war-within-united-states/p32762>

³ http://ec.europa.eu/smart-regulation/better_regulation/documents/com_2015_215_en.pdf



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Commission to make the TTIP negotiations more open, improve transparency in key legislative negotiations and prevent corporate interests dominating secretive “expert groups”⁴; for example, on reviewing pollution standards for coal power stations⁵. In all of these case national governments – including the UK – were complicit in preventing greater transparency and favouring corporate interests.

There are many ways for citizen’s to intervene directly in Europe, but the distance and complexity of procedures often dissuades people from exercising their right to complain over failures to fairly implement EU legislation or over maladministration by European authorities.

National Parliament’s should help represent citizen’s views in Europe, but also rarely use the powers they have been given. The UK House of Commons is particularly lax at doing the practical work of reviewing proposed EU laws compared to legislatures in other EU countries⁶.

As the British people are being asked to vote directly on staying in Europe the proposed UK reforms should increase their direct ability to engage in Europe, and to better hold their governments to account for the decisions they make in Europe.

The EU is already undertaking reforms to create single energy, capital and digital markets. If fully implemented should bring real economic, security and environmental benefits to the UK. The UK should make sure these and other serious reform agendas are pushed through. But Europe can’t change significantly overnight or to a UK Parliamentary timetable. Moving too fast risks alienating like-minded reformists in other countries. Pushing through a set of rushed reforms means focusing on minor issues which would miss the opportunity to set the EU reform agenda for the next decade. The UK needs to balance asking for reforms which are deliverable in advance of a referendum, with concrete commitments to future large scale change.

Below are five reforms which do not require EU treaty change but would deliver real benefits to UK citizens, and improve the accountability of European decisions and the UK Government’s role in making them.

- > **EU Reform Protocol:** The EU can’t change overnight but the UK could get a commitment to a forward agenda to tackle fundamental issues like fair corporate taxation, and big budget items such as the Common Agricultural Policy (CAP) and Fisheries Policy. Citizens across the EU support reforms to ensure companies pay their taxes and the EU spends less on big farmers and more on climate change, innovation and external policy. In the past reform in these areas – often proposed by the European Commission - has been watered down due to horse-trading between governments. Successive UK governments have squandered opportunities for CAP reform in order to achieve tactical gains for the UK budget rebate. The UK should work with others to negotiate a binding Reform Protocol

⁴ <http://www.ombudsman.europa.eu/en/cases/initiatives.faces>

⁵ <http://www.theguardian.com/environment/2015/may/28/brussels-moves-to-limit-coal-lobbys-influence-on-pollution-standards>

⁶ <http://www.cer.org.uk/publications/archive/policy-brief/2015/ten-point-plan-strengthen-westminsters-oversight-eu-policy>



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which guides European reform over the next budget-setting cycle to 2020. This agenda should set detailed goals in areas like taxation reform, nationalisation of CAP payments and full regionalisation of fisheries policy.

- > **Citizen's Right to EU Information:** EU processes – for example over trade negotiations like TTIP – are still too closed and secretive. The release of documents to the public is too often seen as a privilege not a right. National Governments often encourage this closed approach to avoid scrutiny from their electorates. The rules on access to information should be revised to incorporate recent judgements by the European Court of justice extending citizen's rights and reducing most exemptions for withholding documents⁷.
- > **Strengthen the EU Citizens' Ombudsman:** the EU Ombudsman already has the power to investigate citizen claims of European maladministration. However, few know how exercise these citizen rights, or other rights which allow citizens to protest against failures to enforce EU laws (helpful for UK fishermen) or start an investigation against anti-competitive activity. The UK should push to expand the Ombudsman's role so it acts as a "one-stop-shop" for citizens complaints; helping Europeans exercise all their rights to engage the European Commission and hold it to account. The Ombudsman should be given stronger powers to oversee the conduct and impact of corporate lobbying in Brussels, and to scrutinise Commission compliance with internal controls such as environmental and social impact assessment of proposed legislation.
- > **Engage National Parliaments in setting the EU Agenda:** National Parliaments already have "yellow card" power to force a review of EU proposals if they transfer unnecessary powers to Brussels. This power has been exercised twice in the last decade⁸. Cameron has already suggested strengthening this power to allow an absolute veto on any grounds. But this could block not enable reform. Many Parliaments would like a more positive way to engage in the EU agenda⁹. One reform would be to convene a "Grand Council" of governments and Parliaments every five years to agree the main forward priorities for EU action. This would open space for a real discussion on the forward direction of the EU, which has yet to happen through European Parliament elections. The agreed agenda would legitimise EU action, and limit the political freedom of movement of the European Commission to propose major new initiatives except in emergencies or where compelling changes in circumstances have occurred.
- > **Mandatory Parliamentary Scrutiny of European Proposals:** National Parliaments have the ability to fully scrutinise EU proposals but the rigour of oversight varies widely. The Austrians vote on their Government's mandate in advance of European negotiations, but the UK Parliament rarely conducts any scrutiny at all. The UK's reform package should include an inter-governmental agreement to strengthen over-sight of EU legislation based on common minimum standards for all EU countries. In the context of any treaty change this could be made mandatory with a country's vote in European Council being removed if they persistently fail to meet minimum standards of national legislative scrutiny.

⁷ http://www.europarl.europa.eu/RegData/etudes/note/join/2013/493035/IPOL-LIBE_NT%282013%29493035_EN.pdf

⁸ <http://epthinktank.eu/2014/01/20/eu-subsidiarity-check-by-national-parliaments/>

⁹ http://www.cosac.eu/documents/bi-annual-reports-of-cosac/f4%20COSAC%2022nd%20Bi-annual%20Report_EN.pdf



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The measure of Europe should not be how little it impacts national legislation, but how well it protects the interests of European citizens. In an increasingly open world citizens need strong international rules to regulate the activities of companies and ensure they pay their fair share into society. But to maintain legitimacy citizens need to see that these rules are fair, necessary and being implemented properly.

In an increasingly sceptical age, this cannot be achieved purely by giving national governments – or national parliaments – more say in the EU. Sustainable reform needs to increase the voice of citizens directly, and protect their interests against more powerful and well resourced actors. Such a “People’s Reform” agenda would be popular and strengthen Europe by helping decision making become more transparent and fair. It would also help underpin a permanent revolution to focus European co-operation on areas where European citizens see the greatest value.