

The EU's first fully detached member?



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The United Kingdom is about to change the terms of its membership of the EU forever, and for the worse, writes

Andrew Duff

You might be forgiven for wondering, after all the red lines and opt-outs of the Blair-Brown era, if the UK's relationship with the EU could become even more semi-detached without becoming entirely detached. You are about to find out.

The coalition government has tabled a European Union bill, which last week received its second of three readings in the lower house of parliament. If it becomes law, it would impose referenda, in each case preceded by an act of parliament, on any major change in the EU treaties, on the use of the passerelle clauses in the Lisbon treaty that allow a move from unanimity to qualified majority voting, and on UK participation (albeit unlikely) in any form of enhanced co-operation. The imposition of a referendum will be automatic, apart from small room for discretion left to ministers on minor issues. Paradoxically, the only treaty changes that will not trigger a referendum

are those relating to EU enlargement – precisely the issue on which France and other states are insisting on having a referendum. (Such British particularism only serves to fuel the widespread suspicion that the UK wants to expand the EU in order to weaken it.)

The bill also contains a 'declaratory' sovereignty clause that recalls that the UK is a member of the EU, and thereby recognises the primacy of EU law, only by virtue of its original Act of Accession in 1972. This is already prompting byzantine legal pedantry.

It is already clear that the bill has failed in its main political objective of placating the ultra-nationalists who populate the Conservative backbenches. There is a delicious irony in seeing those parliamentarians most vexed by the ceding of parliamentary sovereignty to the EU institutions perfectly happy to hand sovereignty to the hapless electorate via binding referenda. Likewise, these same parliamentarians insist on the

common-law principle that no parliament can bind its successor – while busying themselves with ensuring that referenda will be entrenched in Britain's rickety constitution for all time. David Lidington, the minister for Europe, crowed that the bill, if enacted, would be "enduring" because the "political cost" to any government that sought to repeal it would be too high. How right he is.

The Labour opposition will vote against the bill for reasons that are not altogether clear. One hopes for some sharper criticism when the draft law reaches the upper house, the House of Lords.

The European Parliament's constitutional affairs committee will visit London in January to investigate what the bill might mean for the constitutional order of the EU.

The UK has always tended to over-elaborate the transposition of EU directives into domestic law, but this bill presages something a lot more damaging. Lisbon designates ten cases where EU decisions have to be ratified by national constitutional requirements. This bill imposes many more and does so unilaterally.

At the EU level, British ministers will be hard-pushed in the Council of Ministers to fulfil their legal duty to commit their state. EU law-making will be much delayed by these new British procedures. The UK is making itself an untrustworthy negotiating partner, particularly in matters of treaty amendment, which is such an important driver of European integration.

At home, referenda will unleash the forces of populist nationalism. Facile coalitions of nay-sayers will form to block Britain's progress in Europe. Regular referenda on issues of mind-boggling complexity will further sour the British people's already febrile relationship with the Westminster parliament and its political parties. Nobody need delude him- or herself that an EU referendum in Britain can be won, at least for a generation.

The blunt truth is that if this bill becomes law no future EU treaty revision will be possible if the UK remains a full member state of the Union. Plan B anyone?

Andrew Duff is a UK Liberal Democrat MEP and president of the Union of European Federalists.

Why Cancún marks a turning point

The world is today on the path to yesterday's worst-case scenario. We now need to prepare for vast changes, writes

Julian Hunt

Far from being another unsuccessful meeting on climate change, as some predicted, the Cancún summit is likely to be looked back upon in years to come as a seminal moment. The accord, reached on Saturday (11 December), endorsed the various pledges of action by countries to limit greenhouse-gas emissions. More significantly, it effectively accepted that it is probably impossible to preserve the global environment in its present state.

The focus thus now moves to adaptation to deal with a more volatile climate. The exceptional seriousness of the problem was underlined last month by the International Energy Agency (IEA): based on the pledges and goals in the Copenhagen Accords agreed last December, it predicts that annual

emissions will be 21% higher in 2035 than in 2008 – and, if so, the global temperature will rise by at least 3.5°C.

The incremental, non-legally binding Cancún Accord, which builds upon the Copenhagen Accords, will do little to alter that dynamic. Indeed, opposition to the deal has centred on the possibility that, so critics assert, it could result in a global temperature rise of more than 4°C.

The world is thus on the path of the business-as-usual scenario envisaged recently as an unlikely worst case – and the international community must therefore consider unprecedented extremes and changes in climate patterns.

Temperature rises of 3-4°C will, most likely, take continental-sized areas irreversibly past the tipping point. Millions, if not tens of millions, of people are likely to be displaced by desertification, rising sea levels and the melting of mountain snow. That is just one of the probable effects.

International action must now focus on how societies can adapt to (as well as prevent) these changes.

How is the world responding?

Firstly, the Cancún deal, to which more than 190 countries have signed up, may

not be the strong, legally binding deal that was needed, but it is better than no deal. Measures include a Green Climate Fund intended to raise and disburse \$100 billion (€75bn) a year by 2020 to protect poor nations against climate impacts and help their low-carbon development; and an adaptation committee will support countries as they establish climate protection plans.

The second trend is the growth and diversification of local, regional and national responses. For instance, in China, the government is preparing a comprehensive climate-change law, while regional governments are substantially improving efficiency by offering financial rewards to those who reduce energy use. These arrangements are evolving into local carbon markets, albeit small and voluntary at this stage.

The EU is promoting carbon trading, to motivate industrial efficiency, and different kinds of low-carbon energy, from wind to nuclear energy. It is also planning to introduce more advanced ways to monitor emissions so that regulation and incentives become more reliable.

Other countries, such as Brazil and Mexico, are focusing on minimising the

loss of forestry, one big focus of attention at Cancún.

However, these initiatives and the Cancún Accord are aimed at preserving the current global environment. We are heading beyond that point.

Countries should now plan for monumental changes. They will need integrated practical policies that deal both with the full range of climate-change adaptation and natural disasters (they would do well to look at the Netherlands Delta commission and the report of the UK Adaptation Sub-Committee of the Committee on Climate Change).

Some adaptation measures will have to be planned internationally, but the international co-operation needed most urgently is regional – for example, to prevent deforestation in up-river states and desertification in up-wind states. There is huge scope for ingenuity and community action across the world; political leadership is vital.

Such preventative steps have to begin right away. If not, the cost will rise. It would be folly of the highest order to delay this process until economies grow further, as some influential economists continue to argue.

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