

The Prospects of an EU Renegotiation and Referendum

On 23 January 2012, David Cameron laid out Conservative plans to renegotiate Great Britain's place within the European Union (EU), and to put the resulting settlement to a referendum vote. Harold Wilson's Labour government came to power on a similar promise in 1974, with a majority voting in favour of European Economic Community (EEC) membership in 1975. This note will briefly compare and contrast the two renegotiations and suggest lessons that might be learnt and a framework for judging any future negotiation's success.

Analysis will draw heavily on a 1999 interview with Sir Michael Palliser, who was the UK's Permanent Representative to the European Communities during the Wilson renegotiation and a recent interview with Lord Hannay of Chiswick, who served as Chef de Cabinet to the UK's first Senior Commissioner, Sir Christopher Soames. These diplomats' perspectives are different in that Palliser, as a Foreign and Commonwealth Office (FCO) employee, was part of the British government, whereas Hannay was not at the time of renegotiation.

Cameron's Goals

The Prime Minister laid out five principles for his 'vision' of the European Union: competitiveness, flexibility, power flowing back to member states, democratic accountability, and fairness.¹ Of these, few defined policy goals emerged:

Competitiveness:

- Complete the single market in services, energy and digital trade
- Push for trade deals with the US, Japan and India
- Exempt small companies from more directives
- Control unnecessary spending
- Create a Single Market Council

Flexibility:

- Create a structure that accommodates diverse needs, i.e. Eurozone and second tier.

Power must be able to flow back to member states:

- Enshrine this possibility in Treaty form (as promised at Laeken)
- Examine and judge areas of EU competence and action.
- Reform of labour laws regarding doctors (or in general)

Democratic Accountability:

- No clear proposal; general recognition of national parliaments' superiority to EU bodies.

Fairness:

- Defend the single market in a way that is fair for non-Eurozone countries, implicitly avoiding unfair banking union and fiscal coordination.

This is a cleverly vague mission statement apart from the Competitiveness goals, which are all already in progress as part of normal European business apart from the Single Market Council. This

¹ Government website, Cameron's EU Speech transcript: <https://www.gov.uk/government/speeches/eu-speech-at-bloomberg>

will allow Cameron to claim any changes to the EU won within the next few years are ‘victories’, and thus let him campaign in favour of membership in a referendum.

1974 Renegotiation

Almost as soon as Conservative Edward Heath had taken the UK into the EC, Wilson’s new government was demanding changes. His negotiation goals were as ambiguous as Cameron’s, many of them concerning resistance to future threats.² When Foreign Secretary James ‘Jim’ Callaghan raised the issue with his opposite numbers at Luxembourg, he ‘blew people’s socks off’ and ‘killed any hope that the matter could easily be fudged according to Lord Hannay’s autobiography.’³ Palliser likewise noted his fellow Permanent Representatives were ‘surprised and rather disconcerted’, and himself considered resignation.⁴

The impact of Callaghan’s opening salvo might have poisoned the European waters, but for the unexpected death of French president Georges Pompidou the same day. This threw the French, and indeed much of Europe, into confusion. Meanwhile the British press reported the strong stance Callaghan had taken.

Hannay wrote a paper advising the two British Commissioners, ‘*Renegotiation without tears*’, which was shared with the other Commissioners. One key conclusion was:

“The British will call all sorts of things ‘renegotiation’ which we [the Commission] know aren’t renegotiation. Just don’t contradict them, let them get on with it, because anything they choose to score as renegotiation which is achieved in the normal run of transacting European business – that’s fine – why get into an argument about whether it’s got this label ‘renegotiation’?”⁵

Hannay’s advice not to quibble over semantics meant that the Commission would allow the Wilson government to count EC changes achieved in normal EC business as ‘renegotiation victories’. Other advice – that the Commission should not act as an intermediary between Britain and the other member states, and that the Commission should avoid making public statements about the ‘reasonability’ of Britain’s demands – were designed to make the process as painless as possible.

This was greatly aided by the Wilson government’s ‘real’ position. When Palliser visited London for instructions, he learned “Callaghan’s purpose, with rather more reluctance than Wilson’s, was to use re-negotiation as a means of keeping us within the Community.”⁶ Palliser was told to quietly assure his fellow Permanent Representatives that Britain would not seek treaty change – in effect, the ‘renegotiation’ was to be little more than a PR exercise designed to quell the Eurosceptic elements of the Labour party: “the whole re-negotiation process was really a blind to satisfy the Labour Party and anti opinion in Britain while at the same time enabling the government to say we had tried to

² February 1974 Labour Party Manifesto - <http://www.labour-party.org.uk/manifestos/1974/Feb/1974-feb-labour-manifesto.shtml>

³ David Hannay, Baron Hannay of Chiswick, *Britain’s Quest for a Role: A Diplomatic memoir from Europe to the UN* (I.B. Tauris, London, 2013) p.73

⁴ Interview with Michael Palliser, <http://www.chu.cam.ac.uk/archives/collections/BDOHP/Palliser.pdf>, pp.30-31

⁵ Interview with Lord Hannay, 10/06/2013

⁶ Palliser Interview, p.32

achieve re-negotiation so we should stay in.”⁷ Hannay notes, “If he hadn’t been doing that on instructions then he’d have got into terrible trouble”.⁸ He was given these orders “Either by Wilson, whose Private Secretary he’d been for a number of years, or by Callaghan or by both of them...The FCO doesn’t [act without Government orders]. If the Permanent Representative tells his colleagues at lunch that ‘This, that and the other is the policy of the British Government’, it’s because he’s been instructed to do so.”⁹

This crucial assurance was leaked to the *Financial Times* due to an indiscretion by the Luxembourg Permanent Representative, to Wilson’s great distress. In the British press it caused a brief stir, unsurprising given Hannay’s belief that “the understanding had been that [the Treaty assurance] had to be done very privately, and mustn’t get into the public domain because it would get Harold Wilson into trouble in Parliament.”¹⁰ There was “a rumpus in Parliament. I expect Harold Wilson was pretty angry and upset, as well he might have been because it gave him some difficult management problems...and it may well be that he thought that there was less happenstance – less inadvertent simple bad luck than was involved.”¹¹ This, then, explains Bernard Donoghue’s diary assertions that Wilson ‘lashed out’ at unidentified Civil Servants during the period.

It’s crucial to keep in mind that Lord Hannay’s recollection of events was from outside the British government – “because I wasn’t a British source, I was in the Commission, and everything I wrote about renegotiation was from the basis of someone who was working in the Commission, who was not part of the British governmental machine, who would not therefore see any of the British government papers.”

But in the end, Palliser’s assurances had the desired effect. Hannay recalls “it was a crucial clarification of the British position... clearly a studied and carefully thought-through policy”¹² which convinced the other member states to cooperate and softened European opinions. The renegotiation, such as it was, achieved superficial concessions – Palliser recalled “in fact re-negotiation hadn’t really been a reality, nothing much had changed, we got a few changes in the budget.”¹³ This was a mechanism for ensuring Britain’s contributions were not too large, although it later proved inoperable.

There were also concessions on the New Zealand butter quota (which was to be addressed under the terms of the Accession Treaty anyway), and a statement that the Common Agricultural Policy would be reformed in the future. Palliser concluded “basically things were very much as they were before”, although he defended Wilson’s conduct since the achievements were broadly in line with the Prime Minister’s entry conditions from his 1960s EEC entry attempt.

⁷ Palliser Interview, p.32-33

⁸ Interview with Lord Hannay, 10/06/2013

⁹ Interview with Lord Hannay, 10/06/2013

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

¹³ Palliser Interview, p.33

Wilson's Referendum

Wilson was thus able to campaign in favour of British membership in 1975 on the basis of an ostensibly successful renegotiation, a tactic Lord Hannay noted was 'devious'¹⁴. To keep up pretences, Labour MPs were allowed to campaign for both sides. On Hannay's advice, the Commission stayed out of the fight. Christopher Soames and George Thomson, the British Commissioners, campaigned with the 'Britain in Europe' group alongside Roy Jenkins, Ted Heath and Jeremy Thorpe.

The role of the Commission itself was neutral – they only had a mandate to intervene if the existence of the EC was threatened. Instead the Commission busied itself responding to European Parliamentary Questions, which "was a useful way of showcasing what was the good side of what was going on in Brussels". The Commission were careful not to overreach – "We didn't have any direct role in the campaign at all...because we were very careful, I mean you know, we would have been at great risk if we had done [campaigning] in terms of, if the other side crying 'Foul' and the Commission being implicated. No – our main effort was to stop any other Commissioners apart from Soames and Thomson from crossing the channel." This policy of benign non-intervention clearly worked – Britain voted to stay in the EC two to one.

Lessons

There are lessons both for Cameron (or whichever government attempts renegotiation), and for the voter.

Commission impartiality

Renegotiation, whether involving treaty change or not, must be a matter between the UK and the other member states. Plenty of Eurosceptics love to lay into the Commission – as proven by UKIP leader Nigel Farage's displays in the European Parliament. Equally, some Commissioners may wish to combat hostile claims or demands publicly. What 1974 shows is that success, even on relatively small matters, needs goodwill on both sides of the table. As Lord Hannay noted, "it is very important the Commission doesn't become the fall guy for both sides of the argument".

Government – Negotiator relations

It's clear from Palliser's interview that he did not always have a good relationship with Jim Callaghan, whom he describes as a bully and whose conduct is bad enough to make Palliser consider resignation. Likewise Hannay notes that Christopher Soames "had a poor relationship with Jim Callaghan and so seldom went to see him." It was important, therefore, that Palliser had much better links to Harold Wilson and Soames "knew a lot of the People in the Foreign Office...had very good access to Number 10 and knew people like Robert Armstrong" who was Wilson's Private Secretary. Clear communication between the Commissioner, Permanent Representative and Downing Street was vital to the outcome – had Palliser resigned, his personal relationships with fellow representatives would have been lost and the goodwill of other member states weakened.

Baroness Ashton is the current British Commissioner, serving as High Representative for Foreign Affairs and Security Policy. She has a history of union involvement and was a Labour peer – however her term ends in 2014. The Coalition will appoint the next Commissioner, tipped to be Andrew Mitchell MP, who was briefly Cameron's chief whip before the 'Pleb' scandal. This would be a

¹⁴ Interview with Lord Hannay, 10/06/2013

positive, trusting relationship were the Conservatives to win the next election, but could prove problematic if Labour win and persevere with renegotiation.

Judging concessions

Hard Eurosceptics will doubtless criticise Cameron if he tries to replicate Wilson's tactics. As noted above, Cameron's five principles leave him plenty of wiggle-room, and he's likely to frame everyday European developments as part of his renegotiation. Lord Hannay suspects the Conservatives are "going to call the Common Fisheries Policy, the new reform package on CFP which is gradually taking shape, which is more and more certain to get onto the statute book and which is going to ban discards and is going to pass decisions much more down to the regional levels and which is going to therefore be much less centrally controlled - they're going to call that renegotiation." Similar successes may arise from the 'Transatlantic Trade and Investment Partnership' with America, which Cameron and Barack Obama jointly announced on 17th June at the Northern Ireland G8 Summit.

Realism

Lord Hannay notes of the American deal 'if it has to be dressed up, it'll be dressed up, and that's what they'll do I'm sure... it just makes it slightly devious' but argues that, contrary to the assertions of former Chancellor of the Exchequer Nigel Lawson,¹⁵ this does not mean normal business concessions will be 'inconsequential'.¹⁶ The manner in which change is achieved should not matter to the final settlement or to the question posed to the country, regardless of whether it is literally a 'consequence of Bloomberg'. Fisheries reform is important, both for ecological sustainability and the future of the fishing industry – as Lord Hannay says, such changes 'are both important and desirable.'

¹⁵ <http://www.thetimes.co.uk/tto/opinion/columnists/article3757562.ece>, 07/05/2013

¹⁶ Lord Hannay Interview, 10/06/2013