



HOUSE OF COMMONS
LONDON SW1A 0AA

03 December 2018

Below I have set out my position on the Brexit negotiations. This is the letter that I sent to constituents who contacted me from all sides of the Brexit divide. This letter was written on 03/12/18 and consequently due to the ever-changing nature of the current political scene some remarks may seem out-of-date at the time of reading.

As you will imagine many constituents like yourself have written to me, some urging me to support a No Deal position, some urging me to try and ensure that we do not leave the EU at all. From both sides I have been asked not to support the botched agreement the Prime Minister has currently reached with the EU.

There are vital considerations of principle as well as practical issues of parliamentary arithmetic that mean the political situation is changing constantly. So I am grateful to you for giving me this opportunity to set out the position I hold on this most difficult of constitutional issues.

Our country was, and continues to be, deeply divided by the referendum. It is foolish therefore for any politician to think they can please all their constituents equally – except in being open and straightforward in setting out their views -- and for that reason I want to assure you that this letter is the self-same letter that I send to everyone who writes to me on Brexit. I do not write one thing to leavers and another to remainers!

First my starting point:

I voted to remain in the EU and I campaigned to remain. You may recall that I held a public meeting here in Brent North before the referendum to discuss Brexit with my constituents and the result in Brent was that 60% of voters voted like me to Remain in the EU.

Nationally that of course was not the case. The 'Leave' vote won the referendum by 17,410,742 to 16,141,241 or 52% to 48%.

I was disappointed by the result, but I am a democrat and I accept that in all parties we said that we would abide by the result.

To my mind then at that point, the decision as to whether we leave the EU was settled. What was not settled was the manner in which we leave and the nature of the future relationship which we might have with the EU.

Leaving the EU means that our country is no longer bound by the two core functional treaties that lay out how the EU operates. These are the Rome Treaty (TFEU 1957) and the Maastricht Treaty (TEU1992). Outside of these treaties we have no representation on the EU Council, we cannot elect members of the European Parliament and we are not able to



appoint anyone to the European Commission. In short we are no longer subject to either its responsibilities or privileges.

Over the past two and a half years since the referendum, Theresa May has tried to exclude parliament from the process of leaving the EU. In the Labour Party we have consistently argued that parliament must be properly consulted and fully involved:

We argued that the Prime Minister could not trigger Article 50 without a vote in parliament. The Supreme Court ruled we were correct.

We argued that parliament had the right to see the “detailed impact assessments” the government said they had prepared. The government refused; but were eventually forced by a parliamentary procedure to publish what turned out to be very sketchy documents indeed. We argued that parliament should have the right to “a meaningful vote on the final deal “. Again the government said no; but were forced to concede this.

We argued that parliament had the right to see the financial modelling the government had prepared for the different Brexit scenarios. Again the government said “No”; and when they were once more forced to concede it became clear that they had not even modelled the actual agreement Theresa May had concluded with the EU, but only her Chequers Proposals. We argued that parliament had the right to see the full legal opinion prepared by the Attorney General about the Prime Minister’s Agreement with the EU. At the time of writing this letter the government is still refusing to allow parliament this information and the Speaker of the House of Commons has approved a special debate holding the government in contempt of parliament. Ironic; given that Brexit was supposed to be about the sovereignty of parliament!

The pattern is clear: Theresa May has tried to exclude our sovereign parliament from the process at every stage. It is hardly surprising then, that when she finally brings her deal back to the House of Commons it is a deal that Members of Parliament on all sides now believe is not in the best interests of the country.

In fact her “deal” is not actually a single deal at all. It is a package where there is one deal with binding commitments by the UK on the things the EU demanded we settle before we leave; and another proposed deal which only contains a wish list with no binding commitments by the EU on all the things the U.K. would like in terms of our future political, trading and security relationship. Both these — the withdrawal Agreement and the Future Political Framework — are packaged up with a transition period during which the real final deal will be negotiated. That is why many people have called this a “blind Brexit”; because we are unable to see what we will get before we leave the EU on March 29th 2019 and when we have no further leverage.

This blind Brexit gives us no assurance on the continuation of the European Arrest Warrant which enables us to detain and repatriate criminals. It fails to set out what relationship we would have with Europol or whether we could even use the SIS2 criminal database which currently our police and border forces access 500 million times a year to keep our country safe.



Crucially, the blind Brexit fails to set out how we avoid a hard border in Ireland. The government says that currently the technology to avoid a hard border does not exist, but in a staggering act of faith, says that it will be possible to achieve by December 2020 when the transition period comes to an end.

But if the future political, trade and security relationship is not agreed by that time — and this deadline is famously what President Macron said he would leverage to obtain access and quota to our fisheries — the UK is faced with a stark and unpalatable choice: either to extend the transition period for which the EU could charge us billions of Euros or to enter into the backstop arrangement.

The backstop locks the UK into a position where all our trade agreements with other countries could be determined to our disadvantage by the EU. It is a “trade Purgatory” where we would be in a customs arrangement like the one Turkey currently has with the EU : where it has no say and must open up Turkish markets to any third country with whom the EU concludes an agreement, but has none of the benefits the EU secures for itself. The backstop is a limbo from which the UK could not unilaterally escape without the EU’s agreement. It also allows for the divergence of regulations between Northern Ireland and the rest of the UK which could undermine the constitutional integrity of the United Kingdom.

Some people would prefer to have what is referred to as a “no deal Brexit”. I believe leaving the EU without a deal would be the worst possible outcome. The government’s own estimate says that a ‘No Deal’ would result in a reduction of 9.3% of GDP compared with remaining in the EU. All the issues which the Future Political Framework document currently expresses a vague hope will be addressed are suddenly crystallised as a negative:

No security cooperation.

No reciprocal deal on citizens’ rights, including those British citizens currently living, working and studying in EU countries.

An end to the frictionless and tariff-free trade with the EU that our manufacturers rely on. (44% of our exports are to EU countries and 50% of our imports come from the EU.)

No cooperation on projects like Erasmus, The European Emissions Trading Scheme, or the European Medicines Agency

No agreement on how to avoid a hard border between Northern Ireland and the Republic of Ireland and the consequential violation of the Good Friday Agreement.

The Prime Minister is nonetheless presenting her agreement as a binary choice between her deal and no deal. She urges MPs to vote for a deal they firmly believe is not in the country’s best interest by threatening them that if they don’t, the consequences of no deal would be even worse. This is not an argument. It is blackmail.

Most important of all; it is a false choice. There is an agreement that could command a majority in the House of Commons. It respects the key reasons why many people voted to leave (money, borders and laws) and it also ensures that we continue to have frictionless trade that protects our manufacturing industries’ just-in-time supply chains. But it demands compromise on all sides.

Labour’s approach has been that with a country so divided we must try to honour the result



of the referendum to leave the EU, but to do so in a way that protects our jobs, our rights, standards and economy. To this end we set out six tests. These were not arbitrary targets plucked out of thin air. They were actually promises made by Theresa May and her Brexit Ministers. In effect, we said: “OK! You say you can achieve that – well we will hold you to your promise.”

Not one of those promises has been delivered in the agreement she is putting before parliament. That is why Jeremy Corbyn offered to work with Theresa May to secure a deal that would solve the issue of the border in Northern Ireland and protect UK manufacturing by creating a new permanent Customs Union with the EU in which the UK would have a say on any future Trade Agreements that we negotiated with third party countries. It is an agreement that would protect our individual rights and standards and ensure that we could not become part of a deregulated race to the bottom. Indeed many Conservative MPs supported amendments to the Trade Bill and the Customs Bill calling for a new Customs Union. This shows that there is genuine cross party support for Labour’s proposal. I believe this offers a genuine prospect that something better can be achieved.

I have long argued that the choice facing Parliament cannot simply be between a bad deal or no deal. I do not believe the Government has the right to subject our country to chaos because of its own negotiating incompetence over the past two and half years.

Therefore, I hope that if her deal is voted down by Parliament, she might reach out and accept the proposal Jeremy has made create a cross party majority and seek on that basis to renegotiate a better deal with the EU. This is a critical point in our history and businesses need certainty and stability. Our country is desperately divided. It seems to me that the supporters of both an uncompromising No Deal or an uncompromising Remain view must all challenge their own position with the question: “Why do half of my fellow citizens disagree with me?”

The task ahead for parliament is to find an agreement that the majority of MPs can accept. The problem with Theresa May’s Deal is that it has been constrained not by what is best for the UK, but by the red lines she herself put in place in order to keep Tory backbench MPs supporting her. I will continue to press the Prime Minister to put the national interest first and to work with the Labour Party, as Jeremy has offered, to achieve a workable compromise.

But we must be clear: the chief constitutional role of any Prime Minister is to command a majority in the House of Commons. If Theresa May cannot or, through her own stubbornness, will not compromise enough to do that, then I believe there should be a general election to try to get a government that can achieve a majority in the House of Commons and renegotiate that better deal for our country.

The Fixed Term Parliament Act makes an early General Election difficult to achieve. The only other way is for Conservative MPs to vote with Labour to pass a vote of no confidence in their own government. They clearly fear that the public would not support them in a General Election and so this is also highly unlikely.



For this reason Labour has ruled nothing off the table, including a so-called “people’s vote”. Whilst I recognise that there is significant public support for a second referendum, I do not actually favour this response.

I consider it would create an even greater sense of disillusion with our democratic system than currently exists.

I believe it is only likely to deepen the divisions that exist in our country.

I am concerned that if there were a reversal of the original result, but on a lower turnout, there would be genuine doubt about the legitimacy of overturning the original decision to leave on a lower poll.

However, I accept it may be the only way to resolve the appalling constitutional mess that two years of disastrous failure by this government has created.

Thank you once again for writing to me and for sharing your views. I am acutely aware that my views could not possibly please all of my constituents. I can only hope to have reassured you that I have given Brexit the most serious consideration, that my judgement has not been guided by dogma and that I will try with integrity to do what I genuinely believe is in the best interests of our country.

Yours sincerely,

A handwritten signature in black ink that reads "Barry Gardiner". The signature is written in a cursive style with a long horizontal stroke at the end.

Barry Gardiner

Member of Parliament for Brent North